

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: Fairfield Sentry Limited, et al., Debtors in Foreign Proceedings.	Chapter 15 Case Case No. 10-13164 (BRL) Jointly Administered
Fairfield Sentry Limited, et al, Plaintiffs, - against - Theodoor GGC Amsterdam, et al., Defendants.	Adv. Pro. No. 10-3496 (BRL) Procedurally Consolidated Under this matter
Fairfield Sentry Limited (In Liquidation), et al., Plaintiffs, - against - ABN AMRO Schweiz AG a/k/a ABN AMRO (Switzerland) AG, et al., Defendants.	Adv. Pro. No. 10-3635 (BRL)

**SUPPLEMENTAL MEMORANDUM OF LAW IN SUPPORT OF
DEFENDANTS' MOTION TO DISMISS**

Defendant Union Bancaire Privée, UBP SA ("UBP"), by its undersigned counsel, hereby joins in the issues and arguments raised in the Consolidated Memorandum of Law in Support of Defendants' Motion to Dismiss, filed in this adversary proceeding on January 13, 2017 (ECF No. 171) (the "Consolidated Brief"), the Declaration of Prof. Nicolas Jeandin, dated January 11, 2017 (ECF No. 175) (the "Jeandin Declaration"), and the Supplemental Memorandum of Law of Defendants in the Adversary Proceedings Listed on Exhibit A In Opposition to Plaintiffs'

Motion for Leave to Amend and In Support of Those Defendants' Motion to Dismiss on
Grounds of *Forum Non Conveniens*, filed on January 27, 2017 (ECF No. 207).

ARGUMENT

I. THE LIQUIDATORS' SERVICE OF PROCESS ON UBP WAS INEFFECTIVE

In their proposed amended complaint, the Liquidators¹ acknowledge that UBP is an entity organized under the laws of Switzerland and with its registered address in Switzerland. *See* ECF No. 139 Ex. A at ¶ 31. UBP was served with process in this proceeding via international registered mail, in contravention of Swiss law, as evidenced by the affidavits of service filed by the Liquidators. *See* ECF No. 53, 54, 78, 91. For the reasons discussed in the Consolidated Brief and the Jeandin Declaration, service upon UBP was ineffective. Therefore, the Liquidators' actions against UBP should be dismissed.

CONCLUSION

For the reasons discussed above, UBP respectfully requests that the Court dismiss this action with prejudice.

¹ Capitalized terms not defined in this memorandum have the same meanings as in the Consolidated Brief.

Dated: January 27, 2017
New York, New York

Respectfully submitted,

LATHAM & WATKINS LLP

By: /s/ Christopher Harris

Christopher Harris
Thomas J. Giblin
885 Third Avenue
New York, New York 10022
Telephone: (212) 906-1200
Facsimile: (212) 751-4864
Email: christopher.harris@lw.com
Email: thomas.giblin@lw.com

*Attorneys for Defendant Union Bancaire Privée,
UBP SA*